

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION

SHAWN MORRISON,

Plaintiff,

vs.

DOCTOR REESE,

Defendant.

CV 17-00039-H-DLC-JTJ

FINDINGS AND RECOMMENDATIONS OF
UNITED STATES MAGISTRATE JUDGE

A proposed complaint and motion to proceed in forma pauperis were submitted by Inmate Shane Burd on behalf of another inmate—Shawn Morrison. The Complaint and motion were signed by Mr. Burd as a witness but they were not signed by Mr. Morrison. Rule 11(a) of the Federal Rules of Civil Procedure requires that every pleading, written motion and other papers be signed by a party personally if the party is unrepresented. In addition, pro se parties may not pursue claims on behalf of others in a representative capacity. *See, e.g., Simon v. Hartford Life, Inc.*, 546 F.3d 661, 665 (9th Cir. 2008) (collecting cases); *Johns v. County of San Diego*, 114 F.3d 874, 876 (9th Cir. 1997); *Russell v. United States*, 308 F.2d 78, 79 (9th Cir. 1962) (a litigant appearing pro se “has no authority to represent anyone other than himself.”)

As neither the Complaint nor the motion to proceed in forma pauperis were signed by Mr. Morrison, the motion to proceed in forma pauperis should be denied and the Complaint dismissed without prejudice.

Based upon the foregoing, the Court issues the following:

RECOMMENDATIONS

1. The motion to proceed in forma pauperis (Doc. 1) should be DENIED.
2. The Complaint (Doc. 2) should be DISMISSED WITHOUT PREJUDICE.
3. The Clerk of Court should be directed to close this matter and enter judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure.

NOTICE OF RIGHT TO OBJECT TO FINDINGS & RECOMMENDATIONS AND CONSEQUENCES OF FAILURE TO OBJECT

Mr. Morrison may file objections to these Findings and Recommendations within fourteen (14) days after service (mailing) hereof.¹ 28 U.S.C. § 636. Failure to timely file written objections may bar a de novo determination by the district judge and/or waive the right to appeal.

This order is not immediately appealable to the Ninth Circuit Court of

¹As this deadline allows a party to act after the Findings and Recommendations is “served,” it falls under Fed.R.Civ.P. 6(d). Therefore, three (3) days are added after the period would otherwise expire.

Appeals. Any notice of appeal pursuant to Fed.R.App.P. 4(a), should not be filed until entry of the District Court's final judgment.

DATED this 6th day of April 2017.

/s/ John Johnston
John Johnston
United States Magistrate Judge